

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE NINETEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and

THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION No: 25010 of 2004

Between:

T. Murga Prasad, S/o. T. Sakkamma,
R/o. Settipalli Village, Tirupathi Urban Mandal, Chittoor District.

..... PETITIONER

AND

- 1 The General Manager, South Central Railway, Rail Nilayam, Secunderabd.
- 2 The Chief Workshop Manager, Carriage Repair Shop, S.C. Railway, Tirupathi.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Writ of Mandamus or any other appropriate Writ or Order or direction declaring that; i) the action of respondents is not providing suitable employment to the petitioner under land losers quota is arbitrary, illegal and unjust. ii) The action of the respondents in not considering any of the representations made to them in the facts and circumstances of the case, is arbitrary and illegal, unjust and is unsustainable. iii) the orders of the Central Administrative Tribunal dt. 17th September, 1996 in O.A.No. 1619/95 in giving a bare direction for consideration of petitioners representation without any further directions is arbitrary illegal, unjust and is unsustainable. and issue a consequential direction directing the respondents to consider the case of the petitioner and provide him suitable employment with the respondents under Land Losers Quota, and pass such other order or orders.

Counsel for the Petitioner: KUM.C.SINDHU KUMARI

Counsel for the Respondents: MR.G.S.SANGHI

The Court made the following:

ORAL ORDER:- (PER GB,J.)

The Writ Petition is filed assailing the action of the respondents in not providing suitable employment to the petitioner under land losers quota and also the order dated 17.09.1996 passed by the Central Administrative Tribunal in O.A.No.1619 of 1995.

2. The matter relates to employment under land losers quota scheme introduced by the South Central Railway. Under the said scheme the land loser is entitled for appointment in an appropriate post.

3. The mother of the petitioner made an application to the respondents for appointment and however when there was no response, she filed O.A.No.1619 of 1995 and the same was disposed of on 17.09.1996 with the following directions:

“4. In the result, the following direction is given:-

The applicant may, if so advised, file a representation to Respondent No.2 for granting her appointment against the land losers quota. If such a

representation is received, respondent No.2 should dispose of the representation in accordance with rules expeditiously.

5. The O.A. is ordered accordingly. No costs.”

4. Subsequently, the Railways issued an order dated 17.12.1996 calling upon the mother of the petitioner to submit necessary certificates to consider her case. But, however, she expressed her unwillingness to accept the employment, as she is not keeping good health and requested the authorities to consider the case of her son Mr.T.Muruga Prasad who is petitioner herein. Pursuant to the said representation, the Railways have replied vide letter dated 28.08.1997 stating that the petitioner is under-aged and he is eligible for appointment on attaining the age of (18) eighteen years i.e., on 15.06.1998 and thereafter, no further action was initiated by the Railways. On 14.12.2000 the Railways rejected the case of the petitioner on the ground that he was under-aged. But, however, when the petitioner attained the appropriate age, no action was taken by the Railways. The petitioner having represented many times, has filed this Writ Petition with a comprehensive relief.

5. Learned counsel for the petitioner submits that the action of the respondents is illegal and arbitrary and goes contrary to the scheme introduced by the Railways. The learned counsel would also submit that now the petitioner is within the age and he is entitled to consider for appointment in accordance with the Rules and also in pursuance of the letter dated 28.08.1997 issued by the Railways.

6. Learned counsel for the Railways submits that the Writ Petition is not maintainable, as the petitioner has to approach the Tribunal first and take appropriate orders. He further submits that the matter was considered on various levels and the mother of the petitioner was asked for appointment, but she refused to accept the offer and thereafter, she tried to put up the case of her son which was also rejected in 2000 vide letter dated 14.12.2000 on the ground that he was under-aged, but the said order was not challenged. Therefore, both on the ground of laches and also on the ground of approaching this Court directly without approaching the Tribunal, the Writ Petition is liable to be dismissed.

7. We have heard the learned counsel for the parties.

8. It is not in dispute that the mother of the petitioner earlier made a representation in O.A.No.1619 of 1995 and the same was disposed of on 17.09.1996 with certain directions. But, when her case was sought to be considered, she expressed her unwillingness to accept the appointment on the ground that she is not keeping good health and made a representation to consider the case of her son. Admittedly, the son i.e., the petitioner herein attained the age of 18 years on 15.06.1998 and it was also accepted by the Railways vide its letter dated 28.08.1997 that he is eligible for appointment on attaining the age of 18 years, but the same was rejected on 14.12.2000 on the ground that he was under-aged. Obviously, there was some calculation mistake.

9. Be that as it may, since the Railways have agreed to appoint the petitioner on attaining the age of 18 years, it is incumbent on them to consider the same and not to resort rejecting the case on one ground or the other. Thus, we do not find any justification for refusing the appointment.

10. Under those circumstances, the Writ Petition is disposed of directing the respondents to consider the case of the petitioner for appointment under land losers quota and pass appropriate orders within a period of two months from the date of receipt of a copy of this order.

11. With the direction indicated above, the Writ Petition is disposed of. No costs.

G. BIKSHAPATHY, J.

P.S. NARAYANA, J.

Date: 19.01.2005

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To

- 1 The General Manager, South Central Railway, Rail Nilayam, Secunderabd.
- 2 The Chief Workshop Manager, Carriage Repair Shop, S.C. Railway, Tirupathi.

3 2 CD copies.